



U.S. Department of Justice

*United States Attorney
Southern District of New York*

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

December 3, 2019

By ECF

Hon. Lorna G. Schofield
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States v. Ross William Ulbricht*, 14 Cr. 68 (LGS)

Dear Judge Schofield:

The parties write in response to the Court's Order dated November 19, 2019 (ECF No. 382), which denied Petitioner Ross Ulbricht's motion for reconsideration and a stay of the Court's Order dated November 13, 2019 (ECF No. 380), and directed the parties to meet and confer regarding language to be included on an attorney-client waiver form to be executed by Ulbricht.

The parties have agreed on the language summarizing the scope of the privilege waiver as follows:

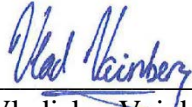
Mr. Dratel is authorized to provide information regarding (1) Mr. Dratel's advice to Ulbricht related to plea negotiations in Ulbricht's criminal prosecution in the Southern District of New York, and (2) decisions made by Mr. Dratel to advance or concede certain arguments and stipulations at trial, to the extent referenced in Ulbricht's habeas corpus petition. This authorization allows Ulbricht's former attorney to testify only pursuant to court order, and only to the extent necessary to shed light on the allegations of ineffective assistance of counsel that are raised by Ulbricht's motion.

The proposed form requested by the Government is enclosed for the Court's consideration as Exhibit A. The Government is informed by defense counsel, that the defense continues to object to the Government's ability to debrief Mr. Ulbricht's former counsel regarding ineffective assistance claims raised by Mr. Ulbricht against him, without Mr. Ulbricht's current counsel being present to assert possible privilege objections subject to a protective order. The defense also objects to any requirement that Mr. Ulbricht be required to affirmatively authorize prior counsel to disclose information to the Government.

The Government believes these objections lack merit and have been resolved by the Court's prior Orders. Accordingly, the Government intends to proceed with obtaining information from Mr. Dratel about the topics raised in Mr. Ulbricht's habeas petition, as explicitly specified in the proposed waiver form.

Respectfully,

GEOFFREY S. BERMAN
United States Attorney

By: 

Vladislav Vainberg
Michael Neff
Eun Young Choi
Assistant United States Attorneys
Southern District of New York

cc: Zachary Newland, Esq. (via ECF)